

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC 2010-22

**JACK ELLIOT GARRETT  
23143 Kens Way  
West Hills, CA 91304  
Certified Public Accountant Certificate  
No. 31382**

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective December 24, 2010.

It is so ORDERED November 24, 2010.



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FOR THE CALIFORNIA BOARD OF  
ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

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Attorney General of California  
2 KAREN B. CHAPPELLE  
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7  
8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC 2010-22

11 **JACK ELLIOT GARRETT**  
12 **23143 Kens Way**  
13 **West Hills, CA 91304**  
14 **Certified Public Accountant Certificate**  
15 **No. 31382**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

Respondent.

16 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
17 interest and the responsibility of the California Board of Accountancy ("CBA") of the  
18 Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement  
19 and Disciplinary Order which will be submitted to CBA for approval and adoption as the final  
20 disposition of the Accusation.

21 **PARTIES**

22 1. Patti Bowers ("Complainant") is the Executive Officer of the California Board of  
23 Accountancy. She brought this action solely in her official capacity and is represented in this  
24 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Randy M.  
25 Mailman, Deputy Attorney General.

26 2. Respondent Jack Elliot Garrett ("Respondent") is representing himself in this  
27 proceeding and has chosen not to exercise his right to be represented by counsel.

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1           3.     On or about January 30, 1981, the California Board of Accountancy issued Certified  
2 Public Accountant License No. 31382 to Respondent. The Certified Public Accountant License  
3 was in full force and effect at all times relevant to the charges brought in Accusation No. AC  
4 2010-22 and will expire on October 31, 2011, unless renewed.

5                                   **JURISDICTION**

6           4.     Accusation No. AC 2010-22 was filed before the California Board of Accountancy,  
7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
8 and all other statutorily required documents were properly served on Respondent on May 25,  
9 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of  
10 Accusation No. AC 2010-22 is attached as Exhibit A and incorporated herein by reference.

11                                   **ADVISEMENT AND WAIVERS**

12           5.     Respondent has carefully read, and understands the charges and allegations in  
13 Accusation No. AC 2010-22. Respondent has also carefully read, and understands the effects of  
14 this Stipulated Settlement and Disciplinary Order.

15           6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
19 the attendance of witnesses and the production of documents; the right to reconsideration and  
20 court review of an adverse decision; and all other rights accorded by the California  
21 Administrative Procedure Act and other applicable laws.

22           7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24                                   **CULPABILITY**

25           8.     Respondent admits the truth of each and every charge and allegation in Accusation  
26 No. AC 2010-22.

27     ///

28     ///

9. Respondent agrees that his Certified Public Accountant License is subject to discipline and he agrees to be bound by CBA's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California Board of Accountancy may communicate directly with CBA regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time CBA considers and acts upon it. If CBA fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and CBA shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that CBA may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Certified Public Accountant License No. 31382, issued to Respondent, is revoked. However, the revocation is stayed and Respondent is placed on probation for three years on the following terms and conditions.

1. **Actual Suspension.** Certified Public Accountant License No. 31382 issued to Jack Elliot Garrett is suspended for one year. During the period of suspension, the Respondent shall engage in no activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

2. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to CBA on a form obtained from CBA. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by CBA or its representatives.

4. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by CBA or its designated representatives, provided such notification is accomplished in a timely manner.

5. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by CBA and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

6. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice investigation of the Respondent's professional practice. Such a practice investigation shall be conducted by representatives of CBA, provided notification of such review is accomplished in a

1 timely manner.

2 7. **Comply With Citations.** Respondent shall comply with all final orders resulting  
3 from citations issued by the Board of Accountancy.

4 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event  
5 Respondent should leave California to reside or practice outside this state, Respondent must  
6 notify CBA in writing of the dates of departure and return. Periods of non-California residency or  
7 practice outside the state shall not apply to reduction of the probationary period, or of any  
8 suspension. No obligation imposed herein, including requirements to file written reports,  
9 reimburse CBA costs, or make restitution to consumers, shall be suspended or otherwise affected  
10 by such periods of out-of-state residency or practice except at the written direction of CBA.

11 9. **Violation of Probation.** If Respondent violates probation in any respect, CBA, after  
12 giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the  
13 disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed  
14 against Respondent during probation, CBA shall have continuing jurisdiction until the matter is  
15 final, and the period of probation shall be extended until the matter is final.

16 10. **Completion of Probation.** Upon successful completion of probation, Respondent's  
17 license will be fully restored.

18 11. **Ethics Course/Examination.** Respondent shall take a CBA approved ethics course.  
19 Respondent shall take and complete the course by June 30, 2011.

20 If Respondent fails to complete said course within the time period provided or within two  
21 attempts, Respondent shall so notify CBA and shall cease practice until Respondent takes and  
22 successfully completes said course, has submitted proof of same to CBA, and has been notified  
23 by CBA that he may resume practice. Failure to complete the required course by June 30, 2011  
24 shall constitute a violation of probation.

25 12. **Continuing Education Courses.** Respondent shall complete twenty-four hours of  
26 professional continuing education related to the practice of tax preparation. The courses shall be  
27 completed by October 31, 2011. This shall be in addition to continuing education requirements  
28 for license renewal.

1 Failure to satisfactorily complete the required courses as scheduled shall constitute a  
2 violation of probation.

3 13. **Active License Status.** Respondent shall at all times maintain an active license  
4 status with CBA, including during any period of suspension. If the license is expired at the time  
5 CBA's decision becomes effective, the license must be renewed within 30 days of the effective  
6 date of the decision.

7 14. **Cost Reimbursement.** Respondent shall reimburse CBA \$5,414.08 for its  
8 investigation and prosecution costs. The payment shall be made in quarterly payments (due with  
9 quarterly written reports), the final payment being due six months before probation is scheduled  
10 to terminate.

11 **ACCEPTANCE**

12 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
13 stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into  
14 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and  
15 agree to be bound by the Decision and Order of the California Board of Accountancy.

16  
17 DATED: 10-12-12

18   
JACK ELLIOT GARRETT  
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

Dated: October 14, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
KAREN B. CHAPPELLE  
Supervising Deputy Attorney General



RANDY M. MAILMAN  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. AC 2010-22**

1 EDMUND G. BROWN JR.  
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2 Alfredo Terrazas  
Senior Assistant Attorney General  
3 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **CALIFORNIA BOARD OF ACCOUNTANCY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
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12 In the Matter of the Accusation Against:

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13 **JACK ELLIOT GARRETT**  
23143 Kens Way  
14 West Hills, CA 91304  
Certified Public Accountant  
License No. 31382

**A C C U S A T I O N**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as  
19 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

20 2. On or about January 30, 1981, the California Board of Accountancy (Board)  
21 issued Certified Public Accountant Certificate Number CPA 31382 to Jack Elliot Garrett  
22 (Respondent). Effective January 16, 2008, the certificate was renewed through October 31, 2009,  
23 upon receipt of the renewal fee, however, without a declaration of compliance indicating  
24 compliance with continuing education requirements. The certificate is presently on "inactive"  
25 status.  
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28 //

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5100 of the Business and Professions Code provides, in relevant part, that, after notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted, or may censure the holder of that permit or certificate, for unprofessional conduct which includes, but is not limited to, one or any combination of the causes specified therein, including:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

5. Code section 5106 provides in pertinent part that a conviction means a plea of guilty...(and) any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

6. Code section 5063 requires that a licensee report to the Board in writing the occurrence of certain events within 30 days of the date the licensee has knowledge of these events. Among the events are the following: a felony conviction; a crime related to the qualifications, functions, or duties of a certified public accountant; and a crime involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information. As used in Code section 5063, a conviction includes a finding of guilt even though that conviction may not be final or sentence actually imposed until appeals are exhausted.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially

1 related to the qualifications, functions, or duties of the business or profession for which the  
2 license was issued.

3 8. Code section 5107 provides for recovery by the Board of all reasonable costs of  
4 investigation and prosecution of the case, including, but not limited to, attorney's fees in specified  
5 disciplinary actions. A certified copy of the actual costs, or a good faith estimate of costs signed  
6 by the Executive Officer, constitutes prima facie evidence of reasonable costs of investigation and  
7 prosecution of the case.

8 9. Pursuant to Code section 5109, the expiration, forfeiture, or suspension of a license,  
9 practice, privilege, or other authority to practice public accountancy by operation of law or by  
10 order or decision of the board of a court of law, or the voluntary surrender of a license by a  
11 licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation  
12 of or action or disciplinary proceeding against the licensee, or to render a decision suspending or  
13 revoking the license.

14 10. Pursuant to Title 16, California Code of Regulations, Regulation 99, a crime or act is  
15 substantially related to the qualifications, functions, or duties of a CPA if, to a substantial degree,  
16 it evidences present or potential unfitness to perform the functions authorized by the licensee's  
17 certificate or permit in a manner consistent with the public health, safety, or welfare.

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Conviction of a Substantially Related Crime-Felony)

20 11. Respondent is subject to disciplinary action pursuant to Code sections 490 and  
21 5100(a) in that, on or about June 22, 2009, he plead guilty in the United States District Court,  
22 Central District of California, in the case *United States of America v. Jack E. Garrett*, Case No.  
23 CR-08-00492-GHK, of one felony violation of 26 U.S.C. § 7206(2) (Aiding and Assisting  
24 Preparation of a False Tax Return) for the 1999 tax year.

25 12. The circumstances surrounding the crime are that Respondent falsely understated tax  
26 due on a tax return in the name of R.S. for the taxable year 1999 by falsely characterizing a  
27 partnership loss as a non-passive loss based upon material participation by R.S. in the partnership,  
28 thereby falsely understating the tax liability of R.S. by \$12,194. Respondent knew and believed

1 that R.S. had not materially participated in the partnership and was not entitled to claim the  
2 partnership loss as non-passive. In addition to the above conduct, Respondent signed seven other  
3 tax returns for R.L., R.S., and H.F. that he knew also falsely characterized a Form Schedule E loss  
4 as non-passive, rather than passive. The total amount of tax loss associated with Respondent's  
5 preparation and signing of these false returns was determined to be \$357,906.00. Respondent was  
6 sentenced to three years probation, home detention for one year, and 60 hours of community  
7 service. Respondent was also ordered to pay restitution in the amount of \$357,906.00.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Failure to Report Conviction to the Board)

10 13. Respondent is subject to discipline pursuant to Code section 5063, subdivision (a)(1),  
11 in that Respondent failed to report to the Board in writing within thirty (30) days, his conviction  
12 of a felony as more fully discussed in paragraphs 10 through 11, above.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the California Board of Accountancy issue a decision:

16 1. Revoking or suspending or otherwise imposing discipline upon Certified Public  
17 Accountant Certificate Number CPA 31382, issued to Jack Elliot Garrett;

18 2. Ordering Jack Elliot Garrett to pay the California Board of Accountancy the  
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
20 Professions Code section 5107;

21 3. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: May 17, 2010

Patti Bowers  
PATTI BOWERS  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

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28 Elliot Acc.docx